

ESTTA Tracking number: **ESTTA593562**

Filing date: **03/19/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91203277
Party	Plaintiff 3D International, LLC
Correspondence Address	THOMAS COOK THOMAS COOK INTELLECTUAL PROPERTIES 3030 BRIDGEWAY, SUITE 425-430 SAUSALITO, CA 94965 UNITED STATES tom@thomascooklaw.com, thomascooklaw@pacbell.net
Submission	Motion to Extend
Filer's Name	Thomas W. Cook
Filer's e-mail	tom@thomascooklaw.com
Signature	/Thomas W. Cook/
Date	03/19/2014
Attachments	2014 03 19 - Opposer's Motion to Extend Trial Dates - AUTOPIA.pdf(197298 bytes)

1 2. Opposer's counsel has recently received discovery responses from Applicant's counsel,
2 and Opposer's counsel wishes to review Applicant's discovery responses with Applicant's
3 counsel. More specifically, Applicant has not responded to a number of requests, asserting
4 various words and phrases in those requests are "vague and ambiguous." The words and phrases
5 Applicant claims are "vague and ambiguous" include "some contact information," and "the
6 company," and "maintained," and other common words and phrases. Applicant has not
7 responded fully to many of 3D's questions on this ground, and not responded fully on other
8 grounds. Opposer's counsel does not think Opposer's requests involve words which are "vague
9 and ambiguous," and Opposer's counsel thinks a number of other objections to Opposer's
10 questions by Applicant are not well grounded.

11
12 3. Without full responses, Opposer's counsel thinks these parties may not be able to come to
13 resolution of these cases on the merits. Opposer's counsel therefore wishes to discuss
14 Applicant's objections and responses with Applicant's counsel, and put Opposer's thoughts to
15 Applicant's objections in writing, so that Applicant has something upon which it can focus as it
16 responds more fully.

17
18 4. However, Opposer's counsel has a scheduling problem, as Opposer's counsel and his
19 family will be traveling, beginning March 21, and going through April 15, on a well deserved
20 vacation. Plane flights and accommodations have been booked long ago, and Opposer's counsel
21 will be largely unavailable through this period. The reservations for this travel were made nearly
22 a year ago, before scheduling changes have been made at the request of both Opposer and
23 Applicant in this case. Opposer's counsel also has many things to do before traveling, and he
24 cannot get to a thorough review of Applicant's responses to Opposer's Requests for Admissions.
25 Opposer's counsel has worked the last few weekends, and late at night, and again this weekend
26 in preparation for this travel.

27
28 ///

1 5. On March 15, 2014, Opposer's counsel contacted Applicant's counsel to ask the
2 Applicant's counsel to agree to a one-month extension of the remaining trial dates, so that
3 Opposer's counsel can pick this up upon his return from vacation. The thought was that perhaps
4 the parties can agree on some of their differences about Applicant's objections, and further
5 responses to Opposer's Requests for Admissions. Opposer's counsel asked for agreement on a
6 consented Motion to extend remaining dates in these cancellation actions for this purpose. See
7 attached email from Thomas Cook to Leo Zucker dated March 15, 2014.

8
9 6. On March 18, 2014, Opposer's counsel renewed his request for an agreement to extend
10 time in these cases, and on the same day Applicant's counsel advised: "I forwarded your request
11 to the client, and I expect we will be replying tomorrow (Wed)." See attached email exchange
12 between Thomas Cook and Leo Zucker dated March 18, 2014.

13
14 7. On March 19, 2014, Applicant's counsel advised: "PBMA has been advised of the
15 request, will [sic] (and) they will not consent to an extension of time." See attached email from
16 Leo Zucker to Thomas Cook dated March 19, 2014.

18 **Argument**

19 A motion to extend must set forth with particularity the facts said to constitute good
20 cause for the requested extension. TBMP § 509.01(a). Mere conclusory allegations lacking in
21 factual detail are not sufficient. *Id.* Moreover, a party moving to extend time must demonstrate
22 that the requested extension of time is not unreasonable delay in taking the required action during
23 the time previously allotted therefor. *Id.* In the instant case good cause exists to grant the
24 requested extension. The requested extension is necessitated by Opposer's counsel's long-held
25 travel plans, which plans were made prior to a number of scheduling changes in these cases. The
26 planned travel comes at a critical juncture in these cases, as Opposer's counsel and Applicant's
27 counsel should discuss Applicant's recent discovery responses prior to submitting pretrial
28 disclosures and notice of reliance.

1 Opposer's counsel has set forth the facts relating to this matter in sufficient detail to
2 warrant a finding that good cause exists for at least a limited extension of discovery and trial
3 dates as requested herein, and the requested extension is not dictated by the Opposer's own lack
4 of diligence, nor that of its counsel, but rather an unfortunate conflict between travel plans made
5 long ago and the present trial schedule.

6 The Board is liberal in granting extensions of time before the period to act has elapsed so
7 long as the moving party has not been guilty of negligence or bad faith and the privilege of
8 extension is not abused. This request is made as soon as possible after receiving Applicant's
9 discovery responses, and Applicant's refusal to this request for extension of time. As such, it
10 cannot be said the Opposer has abused its ability to request the same.

11 As noted above, Opposer's Pretrial Disclosures are Due 4/11/2014, that is, about three
12 weeks away. For the reasons set forth above, however, Opposer still wishes to pursue this case
13 and, because of the travel and vacation time scheduled for Opposer's counsel, Opposer's counsel
14 believes Opposer will be prejudiced if at least a limited extension of time is not granted by the
15 Board. Opposer therefore requests the Board reset discovery and trial dates to extend them by
16 one month. With such an extension, the remaining dates in this matter should be reset as
17 follows:

18 Plaintiff's Pretrial Disclosures Due 5/11/2014
19 Plaintiff's 30-day Trial Period Ends 6/26/2014
20 Defendant's Pretrial Disclosures Due 7/10/2014
21 Defendant's 30-day Trial Period Ends 8/25/2014
22 Plaintiff's Rebuttal Disclosures Due 9/9/2014
23 Plaintiff's 15-day Rebuttal Period Ends 10/8/2014

24 Respectfully submitted,



25 Date: March 19, 2014

26 Thomas W. Cook, Reg. No. 38,849
27 Attorney for Petitioner
28 3030 Bridgeway, Suite 425-430
Sausalito, California 94965
Telephone: 415-339-8550

1
2 **PROOF OF SERVICE**
3

4 I hereby declare:

5 I am over the age of 18 years, and am not a party to the within cause. I am employed in
6 Sausalito, California.

7 My business address is 3030 Bridgeway, Suite 425-430, Sausalito, California. My
8 mailing address is P.O. Box 1989, Sausalito, California.

9 On the date first written below, I served a true copy of the attached document entitled:
10

11 **MOTION TO EXTEND TRIAL DATES**
12

13 by placing it in a sealed envelope and depositing it in the United States mail, first class postage
14 fully prepaid, addressed to the following:

15 LEO ZUCKER
16 LAW OFFICE OF LEO ZUCKER
17 PO BOX 1177
18 YORKTOWN HEIGHTS, NY 10598-8177
19 UNITED STATES

20 I declare under penalty of perjury that the foregoing is true and correct. Executed at
21 Sausalito, California.
22
23

24
25 March 19, 2014
26



27 Thomas Cook
28

Subject: Re: Opposition - 91203277 (Parent) - 3D International LLC v. Palm Beach Motoring Accessories, Inc. - Opposer's Requests for Admissions, Set Three
From: Thomas Cook <tclaws@pacbell.net>
Date: 3/15/2014 7:07 PM
To: Leo Zucker <lzpatents@gmail.com>

Leo:

I have had a chance to glance at PBMA's responses to 3d's Requests for Admissions, and I wish to raise with you objections to those responses. As a few examples, I note PBMA has not responded to a number of requests because, you say, various words and phrases are "vague and ambiguous." The words and phrases you claim are "vague and ambiguous" include "some contact information," and "the company," and "maintained," and other words and phrases. PBMA has not responded fully to many of 3D's questions on this ground, and not responded fully on other grounds.

Of course, I do not think our questions are "vague and ambiguous," and I think a number of other objections to 3D's questions by PBMA are not well grounded. Without full responses, I think we may not be able to come to resolution of these cases on the merits. I therefor wish to discuss PBMA's objections and responses with you, and put our thoughts to PBMA's objections in writing, so that PBMA has something upon which it can focus as it responds more fully.

However, I have a small scheduling problem: My wife and I will be traveling, beginning March 21, and going through April 15, on a well deserved vacation. We have plane flights and accommodations booked, and I will be largely unavailable through this period. I also know I have many things to do before our trip, and I think I cannot get to a thorough review of PBMA's responses to 3D's Requests for Admissions. I worked last weekend and I am working this weekend, and I can see that I will not be able to accomplish these things before I leave.

I therefore ask that you agree to a one-month extension of the remaining trial dates, so that I can pick this up when I get back from vacation. Perhaps we can agree on some of our differences about PBMA's objections, and further responses to 3D's Requests for Admissions. Please let me know if you agree to a consented Motion to extend remaining dates in these cancellation actions for this purpose.

Regards,

Thomas.

-
--

Thomas Cook Intellectual Property Attorneys
P.O. Box 1989, 3030 Bridgeway, Suite 425-430
Sausalito, California 94965-1989
United States of America
Telephone: 415-339-8550
tom@thomascooklaw.com

On 3/12/2014 4:55 PM, Thomas Cook wrote:

Received today, with thanks,

Thomas.

-
--

Thomas Cook Intellectual Property Attorneys
P.O. Box 1989, 3030 Bridgeway, Suite 425-430

Subject: Opposition - 91203277 (Parent) - 3D International LLC v. Palm Beach Motoring Accessories, Inc. - Opposer's Requests for Admissions, Set Three
From: "Leo Zucker" <lzpatents@gmail.com>
Date: 3/18/2014 4:11 PM
To: <tom@thomascooklaw.com>

Thomas,

I forwarded your request to the client, and I expect we will be replying tomorrow (Wed).

Regards,
Leo

Law Office of Leo Zucker
Patent & Trademark Law
PO Box 1177
Yorktown Heights, NY 10598

Tel (914) 302-2460
Fax (914) 302-2459

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-----Original Message-----

From: Thomas Cook [mailto:tom@thomascooklaw.com]
Sent: Tuesday, March 18, 2014 5:20 PM
To: Leo Zucker
Subject: Re: Opposition - 91203277 (Parent) - 3D International LLC v. Palm Beach Motoring Accessories, Inc. - Opposer's Requests for Admissions, Set Three

Leo:

Did you receive my email of March 15? I wish your consent for an extension of time.

Many thanks,

Thomas.

-
--

Thomas Cook Intellectual Property Attorneys P.O. Box 1989, 3030 Bridgeway, Suite 425-430 Sausalito, California 94965-1989
Telephone: 415-339-8550

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Date: 3/19/2014 5:00 PM
To: <tom@thomascooklaw.com>

Thomas,

PBMA has been advised of the request, will they will not consent to an extension of time.

Leo

Law Office of Leo Zucker
Patent & Trademark Law
PO Box 1177
Yorktown Heights, NY 10598

Tel (914) 302-2460
Fax (914) 302-2459

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